26 March 2013

Dear Hon. Chester Borrows

Ref. Your letter dated 20 March 2013 concerning Judge Kenderdine and Turitea Board of Inquiry

Thank you for your letter replying to our concerns about Judge Kenderdine who chaired the Turitea Board of Inquiry. We agree that section 149J of the RMA states that, the Chairperson of a board must be a current, former or retired Environment Judge or a retired High Court Judge. However, we do not agree with your conclusion that Judge Kenderdine was able to continue sitting on the Board of Inquiry as a retired Environment Judge, for the following reasons:

1. The issue of valid judicial warrants has not been addressed in your letter. When a judge has retired and surrendered their judicial warrant they revert to being normal citizens, i.e. they no longer have judicial immunity and privilege. Kenderdine was a normal citizen when she issued the final decision, thus, she should be liable for the manifest failures such as failures to correct errors that were requested in submissions on the Draft Decision.

2. Your letter fails to address the serious and fraudulent behaviour of Kenderdine signing off the Final Decision as Environment Judge when she had been compulsorily retired for 13 months. We were deceived into believing the process had the sanctity, overview and protection offered by a warranted judge.

We would appreciate you addressing the two points above, which involve a serious constitutional issue.

Yours sincerely

John Adams
(On behalf of the Adams and Huatau Marae)

Cc. EPA, MoE, Hon. C.Finlayson, Hon.N.Smith (who commissioned the Board), Chief Justice, Law Commission, Rt. Hon J.Key, Hon.M.Street Chairperson Regulations Review Committee, Hon.T.Turia